Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006

Message Text

CONFIDENTIAL

PAGE 01 NEW DE 16150 041425Z

55 R
ACTION L-03

INFO OCT-01 NEA-10 ISO-00 DHA-02 ONY-00 /016 W
---------- 092984
P R 041220Z NOV 76
FM AMEMBASSY NEW DELHI
TO SECSTATE WASHDC PRIORITY 9354
INFO AMCONSUL BOMBAY

C O N F I D E N T I A L NEW DELHI 16150

E.O. 11652: GDS
TAGS: PFOR, IN
SUBJ: EXTRADITION: ELIJAH EPHRAIM JHIRAD

REF: STATE 266151

1. THE FOLLOWING ARE THE EMBASSY'S ANSWERS TO THE QUESTIONS RAISED REFTEL:

2. WAS JHIRAD PERSECUTED OR SUBJECT TO SIGNIFICANT POLITICAL PRESSURE BECAUSE OF HIS ALLEGED ZIONIST VIEWS AND ACTIVITIES WHILE HE RESIDED IN INDIA?--THERE ARE CONFLICTING VIEWS AS TO WHETHER JHIRAD WAS NOTABLY ACTIVE IN THE ZIONIST MOVEMENT WHEN HE RESIDED IN INDIA. A LEADING MEMBER OF THE NEW DELHI JEWISH COMMUNITY WHO WAS AND CONTINUES TO BE A CLOSE PERSONAL FRIEND OF JHIRAD STATED THAT JHIRAD WAS VERY ACTIVE IN ESPOUSING THE ZIONIST CAUSE AND OPENLY ADVOCATED EMIGRATION OF INDIAN JEWS TO ISRAEL. SOURCE RECALLED THAT JHIRAD WAS ACTIVE IN THE INDIA-ISRAEL FRIENDSHIP LEAGUE, THAT HE DID ARRANGE MEETINGS TO DISCUSS ISRAEL, AND THAT HE DID ENTERTAIN AND OFFER HOSPITALITY TO ISRAELI DIGNITARIES. THE ISRAELI CONSUL IN BOMBAY, ARMON, HOWEVER, TOLD CONGEN BOMBAY OFFICER THAT JHIRAD "HAD NOT BEEN PARTICULARLY ACTIVE" IN THE ZIONIST MOVEMENT IN INDIA. CONGEN COMMENTS THAT, ALTHOUGH ARMON HAS BEEN IN INDIA ONLY A FEW MONTHS, HE HAS STEEPED HIMSELF DEEPLY IN ALL MATTERS RELATING TO INDIA'S JEWISH COMMUNITY.

3. WHILE STATING THAT JHIRAD WAS VERY ACTIVE ON BEHALF
CONFIDENTIAL

CONFIDENTIAL

PAGE 02 NEW DE 16150 041425Z

OF THE ZIONIST CAUSE WHILE IN INDIA, OUR NEW DELHI SOURCE

Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006

Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006

UNEQUIVOCABLY SAID THAT HE WAS UNAWARE THAT JHIRAD HAD
EVER SUFFERED EITHER PROFESSIONALLY OR PERSONALLY FOR
HIS ZIONIST VIEWS. THIS IS SIGNIFICANT IN VIEW OF
SOURCE'S CLAIM TO HAVE BEEN CLOSE TO JHIRAD. PRESUMABLY
IF JHIRAD HAD BEEN HARASSED, WHETHER BY POLICE SURVEILLANCE
OR OTHER MEANS, HE WOULD HAVE MENTIONED IT TO HIS
FRIEND. THE MOST OUR SOURCE COULD RECALL WAS JHIRAD'S
COMPLAINT THAT HIS POSITION AS JUDGE ADVOCATE GENERAL
OF THE NAVY HAD NOT BEEN UPGRADED AND THAT "PERHAPS"
THIS WAS BECAUSE OF HIS ZIONIST VIEWS. SOURCE, HOWEVER,
WAS CLEAR IN STATING THAT DURING PERIOD OF JHIRAD'S
RESIDENCE IN INDIA, INDIAN ZIONISTS IN NO WAY SUFFERED
FOR THEIR BELIEFS.

4. EMBASSY IS UNABLE TO COMMENT ON JHIRAD'S CLAIM THAT
HE CLASHED WITH ARABISTS AT THE HIGHEST LEVELS OF THE
GOI AND IN PARTICULAR WITH KRISHNA MENON. MENON'S
SUPPORT FOR THE ARAB CAUSE AND IN PARTICULAR HIS CLOSE
RELATIONS WITH EGYPT WERE WELL KNOWN. WE HAVE NO
INFORMATION HERE ABOUT JHIRAD'S ALLEGED CLASH WITH
MENON AT THE 1958 LAW OF THE SEA CONFERENCE.

5. THE EMBASSY, THEREFORE, CONCLUDES THAT JHIRAD WAS NOT
SUBJECT TO POLITICAL PERSECUTION OR UNUSUAL POLITICAL
PRESSURE BECAUSE OF HIS ZIONIST VIEWS DURING THE PERIOD
OF HIS RESIDENCE IN INDIA.

6. IS THE GOI PRESENTLY SEEKING (REGARDLESS OF ITS EARLIER
MOTIVATIONS) TO PERSECUTE JHIRAD FOR HIS POLITICAL VIEWS AND
ACTIVITIES?--OUR NEW DELHI SOURCE STATED THAT BEGINNING
WITH THE 1967 WAR (I.E., AFTER JHIRAD HAD ALREADY LEFT INDIA)
INDIAN ZIONISTS BEGAN TO "LIE LOW." THE GOI'S SUPPORT OF THE
RECENT UNGA RESOLUTION EQUATING ZIONISM WITH RACISM, HE SAID,
HAD A SUBSTANTIAL INHIBITING EFFECT ON THE EXPRESSION
OF PRO-ISRAELI VIEWS. THE DIFFICULT QUESTION IS WHETHER
OR NOT THE GOI NOW SEEKS TO INTERJECT ITS WELL-KNOWN
PRO-ARAB VIEWS INTO THE JHIRAD CASE. THE EVIDENCE AGAINST
JHIRAD APPEARS FROM THE DECISIONS OF ALL THE U.S. COURTS
TO BE SUBSTANTIAL, AND IN VIEW OF THIS IT WOULD NOT
APPEAR NECESSARY FOR THE GOI TO INJECT ITS POLITICAL
CONFIDENTIAL

VIEWS INTO THE CASE TO ENSURE JHIRAD'S CONVICTION.
HOWEVER, THAT POSSIBILITY CANNOT BE RULED OUT.

7. CAN JHIRAD GET A FAIR TRIAL IN INDIA? THE
QUESTION RESOLVES ITSELF INTO TWO ISSUES: WHETHER
THE COURTS IN INDIA TODAY ARE AFFECTED IN THEIR
DECISIONS BY GOI POLITICAL PRESSURES; AND WHETHER SUCH
PRESSURES ARE LIKELY TO BE EXERTED AND HAVE AN EFFECT IN THE

Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006

Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006

JHIRAD CASE. IN SEEKING ANSWERES TO THESE QUESTIONS, THE EMBASSY, ON THE AMBASSADOR'S INSTRUCTIONS, HAS NOT CONSULTED SOURCES OUTSIDE OF THE EMBASSY.

8. AS THE EMBASSY HAS REPORTED, THE GOI HAS SOUGHT IN VAROUS WAYS TO EXERCISE POLITICAL INFLUENCE OVER INDIAN COURTS. CERTAIN JUDGES WHOSE DECISIONS HAVE PROVED CONTRARY TO GOI DESIRES HAVE BEEN TRANSFERRED (SEE NEW DELHI 3490 AND 10270). THE FORMER ATTORNEY GENERAL OF MADHYA PRADESH INFORMED US IN SEPTEMBER THAT HE HAD LOST HIS JOB BECAUSE OF HIS REFUSAL TO SUPPORT TE PRIME MINISTER AND THAT THE INDIAN JUDICIARY HAD LOST ITS INDEPENDENCE. NEVERTHELESS THERE HAVE BEEN DRAMATIC RECENT EXAMPLES OF THE INDEPENDENCE OF THE JUDICIARY. FOR EXAMPLE, THE COURTS IN NEW DELHI HAVE SHOWN UNUSUAL COURAGE IN PROTECTING THE INDIAN EXPRESS AGAINST GOI EFFORTS TO SHUT IT DOWN. COURTS ELSE-WHERE HAVE RULED IN FAVOR OF HABEAS CORPUS FOR POLITICAL DE-TAINEES UNDER MISA.

9. WHILE WE HAVE NO BASIS FOR MAKING A CATEGORICAL JUDGMENT, WE BELIEVE THAT IT IS UNLIKELY THAT THE GOI WOULD EXERT POLITICAL PRESSURES IN REGARD TO THE JHIRAD CASE. WE WOULD ANTICIPATE THAT THE INDIAN EMBASSY WOULD PROVIDE ASSURANCES THAT JHIRAD WOULD BE TRIED SOLELY ON THE EXTRADITABLE CHARGES AND THAT HE WOULD BE ACCORDED RIGHTS NORMALLY AVAILABLE TO CRIMINAL DEFENDANTS; I.E., NOT CURTAILED BECAUSE OF THE EMERGENCY. FURTHERMORE, US COURT RECORDS SUGGEST THAT THE GOI WOULD BE SATISFIED THAT A CONVICTION WOULD BE OBTAINED ON THE BASIS OF CRIMINAL EVIDENCE IN AN IMPARTIAL TRIAL. ISRAELI CONSUL ARMON SAID HE KNEW OF NO DISCRIMINATION AGAINST JEWS IN LEGAL PROCEEDINGS IN INDIA ON RELIGIOUS GROUNDS AND THIS WAS CONFIRMED BY OUR NEW DELHI SOURCE IN THE JEWISH COMMUNITY. ARMON WAS OF THE VIEW THAT JHIRAD WOULD BE PROSECUTED FOR HIS ALLEGED CRIME AND NOT PERSECUTED FOR HIS RELIGION. HE ADDED, HOWEVER, THAT THE COURTS DO NOT WORK IN AN CONFIDENTIAL

INTELLECTUAL VACUUM AND BECAUSE OF JHIRAD'S STATEMENTS IN THE US OF HIS VIEWS ON THE SITUATION IN INDIA, JHIRAD COULD EXPECT HEAVY PUNISHMENT WERE HE TO BE FOUND GUILTY. WE ARE UNABLE TO EVALUATE THIS VIEW BEYOND OUR GENERAL COMMENTS ABOVE AND OUR OBSERVATION THAT NO COURT IN ANY COUNTRY OPERATES WITHIN AN INTELLECTUAL VACUUM.

10. ADDITIONAL QUESTIONS REFTEL:

(A) THE ASSURANCES THE DEPARTMENT SEEKS FROM THE INDIAN EMBASSY SHOULD ADEQUATELY DEAL WITH THE QUESTIONS RAISED IN PARA 8D REFTEL.

(B) WE FIND NO MERIT IN JHIRAD'S CLAIM THAT THE FACT THAT THE SPECIAL POLICE ESTABLISHMENT HAD RESPONSIBILITY FOR

Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006

Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006

HIS CASE IS INDICATIVE OF PROSECUTION FOR A POLITICAL
CRIME. FIRST, IT SHOULD BE NOTED THAT THERE IS NO
"INDIAN CENTRAL INTELLIGENCE AGENCY." RATHER THERE IS
A CENTRAL BUREAU OF INVESTIGATION (CBI) OF WHICH THE
SPECIAL POLICE ESTABLISHMENT IS AN INVESTIGATIVE ARM.
WHILE THE CBI DOES HANDLE CASES WHERE THERE IS POLITICAL
INTEREST, ITS PRIMARY CHARTER IS TO HANDLE CASES OF
CORRUPTION WITHIN THE GOVERNMENT. SINCE JHIRAD WAS A
CIVILIAN EMPLOYEE OF THE GOVERNMENT, HIS CASE WOULD
APPEAR TO FALL PROPERLY WITHIN THE JURIDSICTION OF THE CBI.

(C) WE ARE UNABLE TO PROVIDE A READING CONCERNING ACTUAL
SENTENCING PRACTICES OF INDIAN COURTS.

11. IN VIEW OF THE ABOVE INFORMATION, THE AMBASSADOR SEES
NO REASON WHY THE USG SHOULD WITHHOLD THE EXTRADITION OF JHIRAD
ON THE BASIS OF HIS CLAIMS.
SAXBE

CONFIDENTIAL

NNN

Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006

Message Attributes

Automatic Decaptioning: Z
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: JEWS, EXTRADITION
Control Number: n/a
Copy: SINGLE
Draft Date: 04 NOV 1976
Decaption Date: 28 MAY 2004
Decaption Note: 25 YEAR REVIEW
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: vogelfj
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976NEWDE16150
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
Film Number: D760411-1078
From: NEW DELHI
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19761181/aaaacsln.tel
Line Count: 187
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION L
Original Classification: CONFIDENTIAL
Original Handling Restrictions: ONLY
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: ONLY
Reference: 76 STATE 266151
Review Action: RELEASED, APPROVED
Review Authority: vogelfj
Review Comment: n/a
Review Content Flags:
Review Date: 14 JUN 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <14 JUN 2004 by buchant0>; APPROVED <08 OCT 2004 by vogelfj>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: EXTRADITION: ELIJAH EPHRAIM JHIRAD
TAGS: PFOR, CGEN, IN, (JHIRAD, ELIJAH EPHRAIM)
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006